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2 NOT FOR PUBLICATION

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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Marlon Ramos,

10 Petitioner,

11 v.

12 Jon Gurule, et al.,

13 Respondents.
14

No. CV-17-03363-PHX-DJH

ORDER

15 This matter is before the Court on Marlon Ramos' ("Petitioner") *pro se* Petition for
16 Writ of Habeas Corpus (the "Petition") pursuant to 28 U.S.C. § 2241 (Doc. 1), and the
17 Report and Recommendation ("R&R") (Doc. 14) issued by United States Magistrate Judge
18 Michelle H. Burns on August 22, 2018. In his Petition, Petitioner challenged his continued
19 detention in Immigration and Customs Enforcement ("ICE") without a bond hearing.
20 (Doc. 1). On March 19, 2018, Respondent filed response to the Petition (Doc. 11),
21 informing the Court that the immigration court had held on a bond hearing on
22 March 12, 2018. (Doc. 11 at 2; Doc. 11-1). Petitioner did not file a reply in support of his
23 Petition and on August 10, 2018, Judge Burns issued an order requiring Petitioner to show
24 cause within ten (10) days as to why his Petition should not be dismissed as moot.
25 (Doc. 12). Plaintiff did not respond. Judge Burns thereafter concluded that because
26 Petitioner's sole relief had been granted, the Petition was moot and recommended it be
27 denied and dismissed accordingly.

28 In her R&R, Judge Burns advised the parties that they had fourteen days to file

1 objections and that the failure to timely do so “may result in the acceptance of the Report
2 and Recommendation by the district court without further review.” (Doc. 14 at 3) (citing
3 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)). Petitioner has not
4 filed an objection and the time to do so has expired. Respondents have also not filed an
5 objection. Absent any objections, the Court is not required to review the findings and
6 recommendations in the R&R. See *Thomas v. Arn*, 474 U.S. 140, 149 (1989) (noting that
7 the relevant provision of the Federal Magistrates Act, 28 U.S.C. § 636(b)(1), “does not on
8 its face require any review at all . . . of any issue that is not the subject of an objection.”);
9 *Reyna-Tapia*, 328 F.3d at 1121 (same); Fed.R.Civ.P. 72(b)(3) (“The district judge must
10 determine de novo any part of the magistrate judge’s disposition that has been properly
11 objected to.”).

12 Nonetheless, the Court has reviewed Judge Burns’ R&R and agrees with its findings
13 and recommendations. The Court will, therefore, accept the R&R and dismiss the Petition.
14 See 28 U.S.C. § 636(b)(1) (“A judge of the court may accept, reject, or modify, in whole
15 or in part, the findings or recommendations made by the magistrate judge.”); Fed.R.Civ.P.
16 72(b)(3) (same).

17 Accordingly,

18 **IT IS ORDERED** that Magistrate Judge Burns’ R&R (Doc. 14) is **accepted** and
19 **adopted** as the order of this Court.

20 **IT IS FURTHER ORDERED** that the Petition for Writ of Habeas Corpus pursuant
21 to 28 U.S.C. § 2241 (Doc. 1) is **denied and dismissed as moot**.

22 **IT IS FURTHER ORDERED** that pursuant to Rule 11(a) of the Rules Governing
23 Section 2254 Cases, a Certificate of Appealability and leave to proceed *in forma pauperis*
24 on appeal are **denied** because dismissal of the Petition is justified by a plain procedural bar
25 and jurists of reason would not find the procedural ruling debatable.


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1 **IT IS FURTHER ORDERED** that the Clerk of Court shall terminate this action
2 and enter judgment accordingly.

3 Dated this 9th day of April, 2019.

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6 
7 Honorable Diane J. Humetewa
8 United States District Judge
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